

**Reynolds Wheels International, a Division of Reynolds Aluminum of Deutschland, Inc. and International Union United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Petitioner. Case 30-RC-5873**

June 20, 1997

**ORDER DENYING REVIEW**

BY CHAIRMAN GOULD AND MEMBERS FOX  
AND HIGGINS

The National Labor Relations Board has considered the Employer's request for review of the Regional Director's Decision and Direction of Election (pertinent portions are attached) as an appendix.<sup>1</sup> The request for review is denied as it raises no substantial issues warranting review. In denying review, we agree with the Regional Director's decision to conduct a mail ballot election. We note that although the eligible voters are not scattered geographically because of their duties, they are scattered in terms of working staggered shifts. Indeed, the voters' shifts are so varied that it would, the parties agree, require 3 consecutive days of manual balloting to accommodate all eligible voters.

Accordingly, we do not agree with our colleague that the Regional Director abused his discretion in ordering a mail ballot election. See *London's Farm Dairy*, 323 NLRB 1057 (1997).

MEMBER HIGGINS, dissenting.

I believe that a mail ballot election here is a departure from the Manual and the Agency's wise tradition favoring manual balloting.<sup>1</sup>

There is no suggestion here that a manual ballot is infeasible. At most, a Board agent would have to visit the plant on 3 successive days, or off-duty employees would have to go to the plant on 1 day. As to the former alternative, it is clear that budgetary considerations are not alone sufficient to warrant a mail ballot.<sup>2</sup> As to the latter alternative, there is no showing that off-duty employees live long distances from the plant or would otherwise be unable to vote at the plant. In short, there is no reason to depart from the tradition of manual ballots. Accordingly, I dissent.<sup>3</sup>

<sup>1</sup> The sole issue on review is the Employer's contention that the Regional Director erred in directing a mail ballot election.

<sup>2</sup> See Casehandling Manual (Part Two) Representation, Sections 11302.2 and 11336.

<sup>3</sup> There is no showing that the Board agent could not perform other official work during nonvoting periods. The plant is 80 miles from the Regional Office.

<sup>4</sup> For a full discussion of my position, see my dissent in *London's Farm Dairy*, 323 NLRB 1057 (1997).

**APPENDIX**

**DECISION AND DIRECTION OF ELECTION**

The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees, including quality assurance auditors and all leadpersons of the Employer; but excluding all office clerical employees, temporary employees, managerial employees, technical employees, engineers, guards and supervisors as defined in the Act.

The Employer maintains a facility located in Beloit, Wisconsin, the only facility involved in this proceeding. The Employer, at its Beloit facility, is engaged in the manufacture and nonretail sale and distribution of aluminum wheels and related products. There is no history of collective-bargaining for any of the employees involved. The parties did not dispute the appropriateness of the bargaining unit found appropriate, and I find said unit to be an appropriate unit for purposes of collective bargaining.

The parties stipulated to a list of 53 named lead persons, as well as 8 unnamed "outstanding lead positions," (see *Jt. Exh. 1*) attached hereto and made a part hereof. The Petitioner contends that all lead persons are employees eligible to vote in the election. The Employer stipulated to the underlying facts regarding the leadmen, but refused to take a position as to their supervisory status. The factual stipulation demonstrates that none of the lead persons possess any supervisory authority under Section 2(11) of the Act. Further, inasmuch as the Employer has failed to take a position as to their supervisory status or lack thereof, I conclude there exists no dispute as to their status and shall direct that they are eligible to vote in the election directed. *Bennett Industries*, 313 NLRB 1363 (1994).

The only issue involved in this proceeding is whether a manual ballot or mail ballot should be utilized in the election. The Petitioner, contrary to the Employer, asserts that a mail ballot election should be conducted for the entire unit.

The record evidence clearly establishes a staggered work schedule, with various classification of employees having different days off work throughout the workweek. The record further demonstrates that in order to ensure that all employees are able to vote, the election must be conducted over a period of 3 continuous days. In fact, if the election was confined to 2 workdays, 75 employees in a unit of 500 would not be scheduled to work during the 2-day election period. The record is devoid of any evidence establishing the distance employees must travel to vote at the Employer's facility. Finally, I am taking administrative notice of the election conducted in Case 30-RD-5744. In that case, involving the same Employer in an identical unit, the Board agent was required to be present for multiple shifts on each of the 2 days for which the election was held (February 21 and 22, 1996). The location of the Employer is some distance from the Regional Office, and that election required overnight per diem expenses to accommodate the agreed to election times.

## CONCLUSION

The Board has stated the Regional Director has discretion in determining whether to order a mail or manual election. *Diamond Walnut Growers*, 316 NLRB 36 (1995). However, the Board has also stated, "under existing board precedent and policy, the applicable presumption favors a manual election, not a mail-ballot election." *Willamette Industries*, 322 NLRB 856 (1997).

The Board in *Willamette*, supra, reversed the Regional Director and ordered a manual ballot election citing the only factor which the Regional Director relied on in ordering a mail ballot was that the Employer's facility was located approximately 80 miles from the Regional Office. The Board in reversing the Regional Director, stated this fact alone was not sufficient to overrule the presumption of a manual ballot.

However, unlike the facts in *Willamette*, supra, the instant case necessitates the utilization of at least one Board agent for 3 full days to conduct the election. I am hereby taking administrative notice of the small size of this Region—one

of the smallest staff sizes in the country. Further, I conclude that the utilization of least one Board agent for 3 full days to conduct such an election is not an efficient utilization of the Agency's or the Region's resources in a time of limited available resources. I also note that unlike, *Willamette*, supra, where neither of the parties sought a mail ballot election, the Petitioner here, does request that a mail ballot election be directed. Accordingly, I shall direct a mail ballot election in this case.

I am directing that the ballots be mailed to the employees on Wednesday, April 23, 1997, and received at the Regional Office, National Labor Relations Board, Thirtieth Region, Suite 700, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin by 10:30 a.m. on Wednesday, May 7, 1997. The ballots will be counted at the Regional Office at 11 a.m. on Thursday, May 8, 1997.

Seeking review of this decision will not delay the mailing of the ballots or the May 7 return date mentioned above. It will only cause a delay of the actual count until such time as the Board has ruled on any request for review.